

DISTRICT OF NEVADA

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intent to introduce evidence (Doc. #21¹); motion for production of personnel files (Doc. #22);

I. Facts and Background

On February 13, 2013, Painter was indicted on a single count of assault with a dangerous

weapon in violation of Title 18, United States Code, Sections 113(a)(3), 1151, and 1152 relating to

an altercation within the boundaries of the Washoe Indian Reservation on or about January 24,

2013. Doc. #11. Thereafter, Painter filed the various pretrial motions. Doc. ##21, 22, 23, 24.

II. Motion for Notice of Intent to Introduce Evidence (Doc. #21)

In his first motion, Painter seeks an order from the court requiring the United States to

provide reasonable notice of at least twenty-one (21) days before trial of its intent to use evidence

¹ Refers to the court's docket number.

1 of other crimes, wrongs, or acts that would fall within the purview of Federal Rule of Evidence
2 404(b). *See* Doc. #21. The United States does not oppose Painter's request, and agrees than an
3 order requiring notice of at least thirty (30) days before trial would be appropriate in this action.
4 *See* Doc. 27. Accordingly, the court shall grant Painter's motion and require the government to
5 provide notice of its intent, if any, to introduce evidence that would fall within the purview of
6 Federal Rule of Evidence 404(b) at least thirty (30) days before trial.

7 **III. Motion for Production of Personnel Files (Doc. #22)**

8 In his second pretrial motion, Painter seeks an order requiring the United States to inspect
9 and produce all personnel files of federal law enforcement officers and federal task force officers
10 that the United States intends to call as witnesses at trial pursuant to *United States v. Henthorn*, 931
11 F.2d 29, 31 (9th Cir. 1991). *See* Doc. #22. The United States does not oppose Painter's motion and
12 intends to comply with all the *Henthorn* requirements as to all the federal law enforcement officers
13 and officers assigned to a federal task force that it intends to call in its case-in-chief. *See* Doc. #26.
14 Accordingly, the court shall grant Painter's motion for production of the subject witnesses'
15 personnel files.

16 **IV. Motion for Discovery (Doc. #23)**

17 In his third pretrial motion, Painter seeks an order from the court directing the United States
18 to provide "information, material, and/or evidence concerning the alleged victim's specific acts of
19 violence or aggression and/or character trait of violence or aggression." Doc. #23, p.1. Painter seeks
20 such evidence pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963), and Federal Rules of Evidence
21 401, 402, and 404(a)(2). Once again, the United States does not oppose Painter's motion and states
22 that it "has and will continue to abide by all discovery obligations in the present case . . .
23 [including] providing character evidence of the victim that is in the possession of the Government."
24 Doc. #25. Accordingly, the court shall grant Painter's motion for the requested discovery.

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1 **V. Motion to Suppress (Doc. #24)**

2 In his final pretrial motion, Painter seeks an order from the court suppressing any statements
3 he made to Washoe Tribal Police Officers before his *Miranda* rights² were given. *See* Doc. #24. In
4 particular, Painter seeks to suppress statements he made to Washoe Tribal Police Officer Brindley
5 concerning his history and relationship with the victim and the events leading up to and
6 immediately preceding the charged assault. The United States does not oppose Painter's motion to
7 suppress as it relates to any statements he made to Washoe Tribal Police Officers on January 23,
8 2013. *See* Doc. #28. Accordingly, the court shall grant Painter's motion to suppress the identified
9 statements.

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11 IT IS THEREFORE ORDERED that defendant's motion for notice of intent to introduce
12 evidence (Doc. #21); motion for production of personnel files (Doc. #22); motion for discovery
13 (Doc. #23); and motion to suppress (Doc. #24) are GRANTED in accordance with this order.

14 IT IS SO ORDERED.

15 DATED this 19th day of December, 2013.

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19 LARRY R. HICKS
20 UNITED STATES DISTRICT JUDGE
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26 ² *See Miranda v. Arizona*, 384 U.S. 436 (1966).